REMARKS.

The Examiner has rejected Claims 1-6, 15-18, 21, and 22 under 35 USC §112 as failing to particularly point out and distinctly claim the subject matter of the invention.

The examiner points out that Claims 1 and 15 are confusing because they express the catalase concentration in terms of units/mL of polymer matrix. The examiner states that because the polymer matrix is a solid, it is uncertain how to measure mL of polymer matrix. In the hydrogel field, the way to measure the concentration in a polymer hydrogel mixture is by measuring the amount in the pre-gelled phase. Claims 1 and 15 have been amended to reflect this way of measuring . The claims should now overcome the §112 rejection.

The examiner objected to Claims 2 (should be 3) and 16 on the grounds that the mol% of the crosslinking proportion is not well-defined because a crosslinking proportion is not a substance. The claims have been amended to clarify what was meant by the language and should be allowable in its modified form.

The examiner rejected claims 15-18 as being unclear by the preamble to Claim15 requiring a method of making a polymer matrix containing an analytic enzyeme that generates hydrogen peroxide. The examiner states that the single step listed will not produce a polymer matrix. The claim has been amended to be a means-plus-function claim and adds another step to the process to make it allowable.

Claim 15 along with Claim 22 were objected to as being uncertain because of the term "analyte-responsive drug delivery device" in lines 1 and 2 of claim 15. The analyte-responsive drug delivery device is well described in the field as specified by the articles listed in paragraph 16 of the application. Paragraph 16 lists 4 different articles to explain what this delivery device is. The documented articles and the sufficient antecedent within the specification to support the inclusion of a delivery device in the claims should resolve the examiner's concerns without further amendment to the claim.

The examiner objected to the patent application on the grounds that the patent was obvious under 35 USC 103(a) in light of Han et al (WO 99/17095). This objection was improper as the prior art reference should have been excluded under 35 USC 103(c). The references cited by the examiner (WO 99/17095 and 6,268,161 B1) are both assigned to M-Biotech, Inc. The current patent application has also been assigned to M-Biotech, Inc. by the assignment filed with the patent office on April 2, 2001. Since M-Biotech owns 100% of the prior art patents as well as this pending application, citing them as prior art is not proper.

The examiner also rejected the application on the grounds that this patent would be barred under the judicially created doctrine of obviousness-type double patenting. A terminal disclaimer has been filed to overcome this objection.

Please charge any additional fees due, or deposit any overpayments, to Deposit Account No. 13-1175 of the undersigned.

Respectfully,

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